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ABSTRACT

Corporal punishment, the act of disciplining students by inflicting physical pain (usually paddling the child's backside), has recently come under fire due to the public's growing concern over child abuse. Opponents of corporal punishment assert that there is little hard evidence showing that physical punishment promotes character development or produces lasting behavioral change. In fact, opponents claim that corporal punishment can be counterproductive by increasing rather than curtailing antisocial behavior. Corporal punishment supporters believe that coddling students who deserve to be punished is likely to do lasting harm; supporters suggest that children who do not learn that misbehavior has unfortunate consequences may never learn to behave acceptably. Currently, according to federal court rulings, school authorities can use reasonable physical punishment unless board policies or state laws stipulate otherwise. Across the 32 states that permit corporal punishment in their public schools, the laws vary considerably. Most states provide general authority to administer corporal punishment, but a few discourage this disciplinary technique. Whether corporal punishment continues to be used as a disciplinary tool will ultimately be resolved through the legislative process. (48 references) (KM)

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THE DEBATE OVER CORPORAL PUNISHMENT

Policy Memo Series No. 5 October 1989

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The Debate over Corporal Punishment

Historically, American teachers have not been loath to discipline their pupils with the old hickory stick or birch rod. Schools in the 18th and 19th centuries commonly had regulations detailing the use of corporal punishment. North Carolina schools, for example, stipulated the following: "For boys and girls playing together, four lashes; for failing to bow at the entrance of strangers, three lashes," and so on (Van Dyke, 1984). Until 1971, New Jersey was the only state in the nation that prohibited corporal punishment.

Recently, however, some states have been reconsidering their physical discipline policies. Since 1971, 18 states have joined New Jersey in abolishing corporal punishment in the public schools--11 of these in the last two years alone --and a number of other states (including Indiana) have considered the issue. Even though the U.S. Supreme Court rejected a constitutional challenge to corporal punishment in *Ingraham v. Wright* (1977), parents are still filing--and sometimes winning--lawsuits charging school personnel with gross negligence and assault. Given this climate of renewed debate over corporal punishment, there is a need to re-examine some of the facts and issues involved.

Defining Corporal Punishment

Corporal punishment is the act of disciplining students by inflicting physical pain, which usually means paddling the backside. This method of discipline is often distinguished in state and local disciplinary policies from "the use of reasonable or necessary force." Unlike corporal punishment, which is physical contact with the intent to punish, reasonable force is physical contact with the intent to defuse a potentially dangerous situation. Even where corporal punishment is prohibited, school personnel generally are entitled to use reasonable force to protect themselves, other people, and property.

Corporal punishment is also distinguished from assault and battery--unlawfully threatening and touching someone in a hostile manner--which is never acceptable. A teacher or principal may be empowered to spank a student, but not to punch him in the face or kick him in the ribs. There is often a fine line between authorized physical discipline and unacceptable assault and battery, and courts draw that line differently, depending on state laws, school policies, and community standards. For the most part, however, school officials take great care not to violate the rights of students.

Facts and Figures

It is difficult to determine exactly how often students receive corporal punishment in American schools, because there is no systematic method of reporting incidents. But data gathered every two years by the U.S. Department of Education's Office of Civil Rights (OCR) provide a helpful estimate. In 1986, the OCR estimated that slightly over 1 million students received corporal punishment (see Table 1, p. 2). This figure represents a significant drop from the 1.4 million students reported in 1980.

Other sources, however, claim that as many as 2-3 million incidents occur annually (see Gootman, 1988; Hyman, 1984; Norris, 1987). Cryan (1987) estimates that about 3.5% of all public school students receive corporal punishment each year. And almost three quarters of all public school principals report using it, according to a national survey by Rose (1984).

As might be expected, corporal punishment is much more common in some areas of the country than others. Students in the southern portion of the U.S., particularly the Southeast, are far more likely to be paddled than their counterparts in northern or western states (see Table 2, p. 3). The 13 states with the highest rates of corporal punishment are all southern states, led by Arkansas, Mississippi, and Alabama (Ohio and Indiana rank 14th and 15th, respectively). Also, corporal punishment seems to be more common in smaller rural communities than in large metropolitan areas (Rose, 1984). In fact, a number of large urban school districts prohibit the paddling of students.

Table 1. National Data on Corporal Punishment[1]

			TOTAL	White	Black	Other Min.[2]	Male	Female
1986	Enrollment:	# students	41,156,036	28,956,580	6,621,964	5,577,492	21,154,941	19,988,037
		% of total	100	70.4	16.1	13.6	51.4	48.6
	Received Corp. Pun.:	# students	**1,099,731**	659,224	345,411	95,096	892,986	206,978
		% of total	100	59.9	31.4	8.7	81.2	18.8
1984	Enrollment:	# students	39,451,897	28,106,295	6,388,670	4,956,932	20,271,684	19,178,769
		% of total	100	71.2	16.2	12.6	51.4	48.6
	Received Corp. Pun.:	# students	**1,332,317**	852,427	374,315	105,575	1,074,662	257,555
		% of total	100	64.0	28.1	7.9	80.7	19.3
1980	Enrollment:	# students	39,832,687	29,180,415	6,418,194	4,234,078	20,442,566	19,390,395
		% of total	100	73.3	16.1	10.6	51.3	48.7
	Received Corp. Pun.:	# students	**1,408,303**	901,032	403,386	103,885	1,134,977	273,232
		% of total	100	64.0	28.6	7.4	80.6	19.4

Source: Office of Civil Rights, U.S. Department of Education. (1980-1986). [Elementary and secondary school civil rights survey: National summary of projected data.] Unpublished raw data.

1 These figures are projections based on a survey of U.S. school districts. In 1982, not enough districts responded to the survey, so no projected data are available for that year.

2 Includes Native Americans, Asians, and Hispanics.

Table 2. 1986 Corporal Punishment Rates: State-by-State Ranking

Rank	State	Number of Students Receiving Corp. Punishment	Corporal Punishment Rate[1]	Rank	State	Number of Students Receiving Corp. Punishment	Corporal Punishment Rate[1]
1.	Arkansas	64,446	13.71%	26.	Michigan	8,692	0.53%
2.	Mississippi	55,678	10.33	27.	Oregon	2,488	0.50
3.	Alabama	77,961	10.31	28.	Idaho	769	0.37
4.	Tennessee	65,311	8.76	29.	Colorado	1,632	0.26
5.	Oklahoma	51,331	7.95	30.	Alaska	235	0.24
6.	Georgia	93,015	7.81	31.	Wyoming	214	0.22
7.	Texas	260,399	7.79	32.	Montana	281	0.16
8.	Florida	111,194	7.05	33.	California	6,865	0.14
9.	South Carolina	31,157	5.56	34.	Maryland	744	0.12
10.	Louisiana	38,731	4.92	35.	Iowa	502	0.10
11.	Kentucky	30,075	4.75	36.	South Dakota	94	0.07
12.	New Mexico	11,113	3.88	37.	Nebraska	199	0.06
13.	North Carolina	35,444	3.40	38.	Connecticut	90	0.02
14.	Ohio	43,626	2.73	39.	Utah	55	0.02
15.	Indiana	30,830	2.69	40.	Wisconsin	102	0.02
16.	Missouri	19,484	2.16	41.	Minnesota	107	0.01
17.	Arizona	10,386	1.77	42.	North Dakota	10	0.01
18.	Delaware	1,241	1.43	43.	New York	120	0.00
19.	Virginia	11,304	1.14	44.	Rhode Island	3	0.00
20.	West Virginia	3,583	1.05	45.	New Jersey	11	0.00
21.	Pennsylvania	11,830	0.75	46.	Hawaii	0	0.00
22.	Nevada	1,099	0.69	47.	Maine	0	0.00
23.	Illinois	10,251	0.60	48.	Massachusetts	0	0.00
24.	Washington	4,524	0.58	49.	New Hampshire	0	0.00
25.	Kansas	2,478	0.54	50.	Vermont	0	0.00

Source: National Coalition of Advocates for Students. (1987). *A special analysis of 1986 elementary and secondary school civil rights survey data: Region 4.* Boston: Author.

1 The corporal punishment rate was calculated by dividing the number of students receiving corporal punishment by the total enrollment.

Opponents and Supporters

Like so many other issues that focus on the welfare of children, corporal punishment triggers angry words and strong charges. Dr. Irwin Hyman, Director of the National Center for the Study of Corporal Punishment and Alternatives in the Schools, calls corporal punishment "an officially sanctioned form of institutionalized child abuse" (Cryan, 1987, p. 147). But Marvin Munyon, President of the Wisconsin Association of Christian Schools, retorts, "one of the biggest abuses of children today is raising them without discipline" (Viadero, 1988, p. 39).

Unfortunately, available research does not shed much light on the effects of corporal punishment. Both opponents and supporters admit that reliable research is difficult to obtain, in part because of ethical constraints--one can't spank children simply to see how they react (see Cryan, 1987; Ebel, 1977; Rose, 1984). Also, although case studies of children who have been physically punished in schools could be developed, it would be difficult to isolate the effects of this punishment from other variables. Therefore, beliefs about the efficacy of corporal punishment generally hinge on emotional responses, personal experiences, inferences drawn from observation, and assumptions about the nature of children and the nature of discipline, rather than on hard facts.

Opponents

The list of national organizations that oppose corporal punishment is growing. It includes the American Medical Association, the National Association of School Psychologists, the National Committee for Prevention of Child Abuse, the National Education Association, the National PTA, and many others. Apparently, a majority of American parents also oppose the use of corporal punishment in schools. In a recent Harris poll, 53% of parents surveyed nationwide said teachers should not use force to punish students ("Majority," 1989).

Why, opponents ask, should a form of discipline that is illegal in the schools of almost all industrialized nations, and that is illegal to use in this country against adults, criminals, and even animals, be considered a reasonable response to student misbehavior?

Opponents answer that it should not. They see it as an archaic, dehumanizing form of punishment, and they cite numerous incidents of graphic violence inflicted on children by school officials to prove their point. The most graphic cases generally involve punching, kicking, or even more gruesome conduct like poking children with cattle prods or sticking them with straight pins (see Cryan, 1987; Hyman, 1984; Scott & Zirkel, 1987).

But even paddling can seriously injure children, opponents argue. For example, an 11-year-old student in New Mexico was held upside down and paddled on her thighs until she bled, and a 6-year-old in Texas was paddled so hard that her buttocks turned black. Overall, claims Marilyn Gootman (1988), about 150,000 students in 1987 required medical attention for the paddlings they received.

In some cases, according to local authorities, parents would have been arrested for child abuse had they beaten their children as severely as did school officials (Norris, 1987; Viadero, 1988). "I think parents find it offensive," said one Maryland mother, "that an institution can do something legally that they as parents cannot do" (Viadero, 1988, p. 39).

In fact, growing public concern over child abuse has played a role in the recent anti-paddling movement. As Viadero has observed, "the involvement of the more organized child-abuse-prevention groups has given the anti-paddling effort both an organizational and a psychological edge" (p. 38). In one state (Florida), the Department of Health and Rehabilitative Services is now putting some principals who paddle students too vigorously on the statewide Child Abuse Registry ("Paddling Principal," 1989).

Even so-called "judicious" paddlings are problematic, according to opponents. For one thing, physical punishment is ineffective. It may temporarily suppress undesirable behavior, but there is little hard evidence that it promotes the development of character or produces lasting behavioral change (Clarizio, 1977; Cryan, 1987).

In fact, opponents claim that physical punishment may even be counterproductive, increasing rather than curtailing antisocial behavior. Studies often show a correlation between the amount and severity of corporal punishment during childhood and the amount and severity of violence during adolescence and adulthood (Clarizio, 1977; Cryan, 1987). In effect, violence begets violence, as children learn that aggression is an acceptable way of solving problems.

Finally, opponents argue that corporal punishment is administered discriminatorily with respect to race, sex, and socio-economic class: Blacks, males, and children from lower socio-economic families are more likely to be the subjects of corporal punishment than their white, female, or middle class counterparts. Statistically, at least, the numbers bear out this claim. An analysis of the data in Table 1 (p. 2) reveals that black students are more than twice as likely as white students, and males four times as likely as females, to receive corporal punishment. However, according to Hyman, poverty, rather than race or sex, is the best predictor of who is going to get paddled (Viadero, 1988).

Supporters

Supporters of corporal punishment resent the implication that they are sadistic, vengeful beasts, eager to inflict pain on innocent children (see, for example, Ebel, 1977). Such a depiction does little justice to those who simply believe that corporal punishment, judiciously administered, is one important part of the increasingly difficult effort to maintain student discipline and teacher morale in public schools.

Many of these supporters are members of fundamentalist religious groups, and their beliefs rest upon a "back to basics" approach to education and a "spare the rod and spoil the child" biblical interpretation. In his book *What the Bible Says about Child Training* (1980), J. R. Fulgate advocates corporal punishment for children who "consciously rebel" beginning with infants aged six months and suggests that "if a rod is ineffective . . . simply get a better rod." David Delaplane, a minister and consultant for the California Consortium of Child Abuse Councils, states that Fulgate's book is based on "a very pervasive theory of child discipline among fundamentalists" (Divoky, 1986).

Granted, this approach may sound a bit harsh, but fundamentalists are not the only supporters of corporal punishment. Many non-fundamentalist principals, teachers, and parents recall the use of corporal punishment during their school experience and believe it is a reasonable, effective, and sometimes necessary means of enforcing student discipline. The second annual "Gallup/Phi Delta Kappa Poll of Teachers' Attitudes Toward the Public Schools" (Elam, 1989) revealed that 56% of all teachers approved of corporal punishment, while only 38% disapproved. In a nationwide study of corporal punishment in public schools (Rose, 1984), 73% of the principals surveyed felt that corporal punishment was an effective way to demonstrate support for their teachers and that its use had a positive effect on teacher morale. Over 80% believed that corporal punishment helped maintain the general level of discipline in their schools and helped reduce specific behavior problems for certain students. An Anchorage, Alaska survey of local reaction to a proposed ban on corporal punishment revealed that 75% of principals, 79% of teachers, and 64% of parents favored retaining or strengthening existing policy (Scales, 1987). In Ohio, educators proved to be the strongest opponents of that state's proposed ban on corporal punishment (Viadero, 1988).

Supporters admit that isolated incidents of abuse exist, but assert that these extreme cases generally involve unfortunate outbursts of temper on the part of angry teachers rather than the application of official school policy. In most schools, they argue, corporal punishment functions as a safe, simple, effective, and inexpensive method of promoting student discipline when other methods fail.

And they deny that corporal punishment promotes violence and creates maladapted individuals. Rather, they believe that coddling students who deserve to be punished is more likely to harm them in the long run than a couple smacks on the rump. If children do not learn that misbehavior has unfortunate consequences, they may never learn to behave in an acceptable manner. As former principal Dr. Robert Ebel (1977) explains, "there are homes and schoolrooms in which acts of serious and dangerous disobedience are never effectively corrected because the adults in charge have voluntarily disavowed, or have been prohibited from using corporal punishment" (p. 261).

Supporters also dismiss the claim that corporal punishment is applied discriminatorily. The disproportionate spanking of poor and minority students stems from the fact that such students are more likely to come from areas where crime and violence are widespread. Thus it stands to reason, supporters argue, that students from this kind of home environment will be more likely to engage in the sort of

violent behavior at school that often results in corporal punishment.

Supporters also argue that alternatives often are inadvisable or impractical. Out-of-school suspension removes the student from the educational environment, resulting in a suspension of learning, and in-school suspension is not always possible due to a shortage of supervisory staff or facilities.

Finally, supporters believe that corporal punishment is a local issue and should be decided by local school boards based on community standards. Many of the battles for or against corporal punishment do indeed occur at the local level. But like every other source of contention in our litigious society, these battles are also fought in court.

Federal Constitutional Challenges

A single common-law principle has governed the use of corporal punishment since before the American Revolution: Teachers may use reasonable but not excessive force in disciplining a child. Two key cases that reached the Supreme Court during the 1970s reinforced this long-standing principle.

In *Baker v. Owen* (1975), a North Carolina Federal District Court upheld a teacher's right to use corporal punishment over parental objection, but the court did set forth the following procedural safeguards: (a) Except for extremely antisocial misconduct, corporal punishment should not be employed as a first line of punishment for misbehavior; (b) students must be informed beforehand that specific misbehavior will result in corporal punishment; (c) corporal punishment should be administered in the presence of a second school official; and (d) upon request the school official administering corporal punishment must provide the child's parents with a written explanation of the reason and the name of the second official. The U.S. Supreme Court affirmed this decision in 1975 without opinion.

Many schools still choose to follow the procedures set forth in *Baker*, but under a later Supreme Court decision, *Ingraham v. Wright* (1977), those specific procedures are not constitutionally required. In this decision, the Supreme Court by a one-vote margin rejected a federal constitutional challenge to the administration of corporal punishment in public schools. The Court accepted the evidence that the student plaintiffs had been severely paddled by school authorities, but found neither an impairment of the eighth amendment's prohibition against cruel and unusual punishment nor a violation of the fourteenth amendment's guarantee of procedural due process. While recognizing that excessive corporal punishment might abridge students' constitutionally protected liberty interests, the Court reasoned that state remedies are available (e.g., criminal or civil assault and battery suits) to protect these rights. In essence, the Court majority indicated that cases dealing with corporal punishment in public schools should primarily be handled by state courts under provisions of state law.

The *Ingraham* decision made it more difficult, but not impossible, for individuals to use the Federal Constitution in contesting the administration of corporal punishment in public schools. Several federal appellate courts since 1977 have concluded that students who have received excessive corporal punishment can secure damages for the deprivation of their constitutional rights. For example, in 1980 the Fourth Circuit Court of Appeals held that under certain circumstances the infliction of corporal punishment in public schools could violate students' fourteenth amendment substantive right to remain "free of state intrusions into realms of personal privacy and bodily security through means so brutal, demeaning, and harmful as to literally shock the conscience of the court" (*Hall v. Tawney*, 1980, p. 608). More recently, the Tenth Circuit Court of Appeals similarly held that if corporal punishment is grossly excessive, damages can be assessed for the deprivation of substantive due process rights (*Garcia v. Miera*, 1987). The court found the legal principle to be "clearly established" that excessive force used by school personnel violates the fourteenth amendment. Also, in a 1988 case, *Metzger v. Osbeck*, the Third Circuit Court of Appeals held that a trial was necessary to determine whether a physical education teacher intended to inflict serious harm on a student in administering discipline, thus violating the student's constitutional rights. The court reasoned that discipline accomplished through excessive force and appreciable physical pain can abridge fourteenth amendment substantive guarantees.

While these cases indicate that the use of unreasonable force can implicate substantive due process rights, the judiciary consistently has held that the *ordinary* use of corporal punishment does not abridge the United States Constitution. Most constitutional challenges to disciplinary force used by educators have not been successful. For example, the Fifth Circuit Court of Appeals recently rejected a claim that the use of corporal punishment in a Texas school district impaired due process and equal protection rights under the fourteenth amendment, reasoning that state law provided adequate criminal and civil remedies to challenge excessive corporal punishment (*Cunningham v. Beavers*, 1988). Also, a Virginia federal district court held that the conduct of a teacher (allegedly piercing a student's arm with a straight pin) did not involve brutal, inhumane, conscience-shocking treatment required to establish a substantive due process violation (*Brooks v. School Bd. of City of Richmond*, 1983). A North Carolina appeals court rejected a fourteenth amendment challenge to the use of corporal punishment and further denied the contention that the United Nations Charter, which proscribes this disciplinary technique, is binding on the states and prohibits them from allowing corporal punishment in public schools (*Gasperson v. Harnett County Bd. of Educ.*, 1985). Federal courts also have rejected the argument that parents have a constitutionally protected right to choose the type of punishment inflicted on their children (see *Baker v. Owen*, 1975; *Hall v. Tawney*, 1980). In short, school authorities can use reasonable physical punishment over parental objections unless board policies or state laws stipulate otherwise.

State Challenges

Given that corporal punishment must be excessive--indeed, shocking to the conscience--to trigger federal constitutional guarantees, most legal challenges to corporal punishment continue to be grounded in state law. In West Virginia, for example, corporal punishment was challenged under the state constitution (*Smith v. West Virginia State Bd. of Educ.*, 1982). The state high court ruled that corporal punishment by mechanical devices (paddles, whips, and the like) cannot be used in the state's public schools, but that spanking by hand and physical removal of unruly students are permissible. The court also ruled that because a liberty interest is involved when students are spanked, schools must provide some due process, such as the opportunity for students to explain their behavior and the requirement that a second adult be present during the spanking.

Teachers can also be dismissed for insubordination if they disregard state laws or board policies that regulate the use of force with students. A New York teacher lost his job because he violated board policy by continuing to use corporal punishment after having been warned repeatedly to stop (*Jerry v. Bd. of Educ.*, 1975). Some states specify that "cruelty" toward students is grounds for dismissal (McCarthy & Cambron-McCabe, 1987). In Illinois, for example, a tenured teacher was dismissed for punishing students with a cattle prod (*Rolando v. School Directors of Dist. No. 125*, 1976), and a Pennsylvania teacher was dismissed for throwing a student against a blackboard and then pulling him up by his hair (*Landi v. West Chester Area School Dist.*, 1976).

Criminal and civil assault and battery suits for monetary damages can also be filed against school personnel. If the state successfully charges a teacher with criminal assault and battery, fines and imprisonment can result. More common than criminal suits initiated by the state are civil assault and battery claims in which the punished student seeks monetary damages from those inflicting the punishment. For example, a Louisiana appeals court awarded a student $1,000 for pain, suffering, and humiliation associated with an excessive whipping administered by a teacher (*Frank v. Orleans Parish School Bd.*, 1967. See also *Holman v. Wheeler*, 1983; *Johnson v. Horace Mann Mutual Insurance Co.*, 1977; *People v. Wehmeyer*, 1987). In determining whether the use of force by educators has been reasonable, courts have evaluated the physical condition, age, and maturity of the child as well as the nature of the physical force in relation to the offense. In both criminal and civil suits, the presumption of innocence is with the educator, and most state challenges to corporal punishment have not been successful.

State Laws Allowing Corporal Punishment

Laws vary considerably across the 32 states that permit corporal punishment in their public

schools. Most states expressly provide general authority to administer reasonable corporal punishment. Several states discourage this disciplinary technique or allow students to be exempt for physical, medical, or emotional reasons. But by and large, these states give districts broad discretion in formulating their physical discipline policies.

Other states, however, provide very specific guidelines for districts to follow, outlining when and how corporal punishment is to be administered. West Virginia, for example, requires that (a) Corporal punishment be administered without malice, in the presence of an adult witness, and only as a last resort, (b) punishment consists of smacking the buttocks with a paddle or an open hand, (c) students be given an opportunity to explain their behavior prior to receiving corporal punishment, (d) parents be notified in writing of each instance of corporal punishment, (e) parents may petition the school not to subject their child to corporal punishment, and (f) corporal punishment not be administered to handicapped students (§ 18A-5-1).

Finally, a few states do not expressly address corporal punishment. Instead, these states give implied consent to this disciplinary technique by allowing districts to impose whatever reasonable forms of punishment they deem necessary. Courts in these states consistently have interpreted such statutes as upholding the right of schools to use reasonable corporal punishment.

Statewide Bans

Since courts generally support the school's right to administer reasonable corporal punishment, opponents have turned from the courts to state legislatures and local boards in their attempt to ban this disciplinary technique. And opponents have enjoyed increasing success in the legislative arena. Nineteen states have abolished the practice (see Table 3, p. 9), 11 of them in the last two years alone, including four midwestern states: Wisconsin (1988), Michigan (1988), Iowa (1989), and Minnesota (1989).

While prohibiting corporal punishment, most of these state statutes expressly uphold the right of school personnel to use necessary or reasonable force to protect people and property, break up fights, retrieve weapons from students, or otherwise maintain order. Virginia's statute is typical in this regard:

> No teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to corporal punishment. This prohibition of corporal punishment shall not be deemed to prevent (i) the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) the use of reasonable and necessary force to quell a disturbance . . . which threatens physical injury to persons or damage to property; (iii) the use of reasonable and necessary force to prevent a student from inflicting harm on himself; (iv) the use of reasonable and necessary force for self-defense or the defense of others; or (v) the use of reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances. (§ 22.1-279.1, 1989).

In the absence of state legislation, a number of local school boards have elected to ban corporal punishment. In Rhode Island, for example, all 21 school boards have barred its use. Twelve of Maryland's 16 school districts prohibit it. As noted earlier, many large urban districts have also banned corporal punishment (e.g., Atlanta, Cincinnati, Chicago, Little Rock, Minneapolis, Philadelphia, Seattle, and Washington, DC).

Corporal Punishment in Indiana

In Indiana, state law does not expressly address corporal punishment. Corporal punishment is not prohibited, nor are teachers granted specific statutory authority to use this disciplinary technique. However, the state law on due process and pupil discipline stipulates that school personnel have "the right to take any action which is . . . reasonably necessary to carry out, or to prevent an interference with, the educational function" of which they are in charge (Ind. Code Ann. § 20-8.1-5-2[a], Burns 1987). Individual school corporations are required to adopt their own disciplinary policies in accordance with this statute and others that

Table 3. States that Prohibit Corporal Punishment in the Public Schools

New Jersey (1867)	Nebraska (1988)
Massachusetts (1971)	Wisconsin (1988)
Hawaii (1973)	Michigan (1988)
Rhode Island[1] (1975)	Virginia (1989)
Maine (1975)	North Dakota (1989)
New Hampshire (1975)	Iowa (1989)
Vermont (1985)	Minnesota (1989)
New York[2] (1985)	Connecticut (1989)
California (1987)	Alaska (1989)

Oregon (1989)

Note: Some of the information for this table was provided by Adah Maurer, Executive Director, End Violence Against the Next Generation, Inc., Berkeley, CA.

1 State law allows corporal punishment, but all school districts in state prohibit its use.

2 Corporal punishment is prohibited by State School Board regulations rather than by state law.

outline pupil discipline and due process procedures (Ind. Code Ann. §§ 20-8.1-5 et. seq., Burns 1987).

Indiana has experienced few legal challenges to the use of corporal punishment, and courts generally have upheld school personnel in using disciplinary force with students. One exception was an early case, *Gardner v. State* (1853), in which the Indiana Supreme Court held that a teacher's use of unreasonable force (severe whipping, blows to the head, and kicks to the face) violated the state's criminal battery statute.

The same year the Indiana Supreme Court recognized that a teacher may be guilty of assault and battery if corporal punishment is administered in anger or insolence. Noting that Indiana educators have the legal right to use moderate force in disciplining students under the doctrine of *in loco parentis* (in place of parent), the court emphasized that this right does not extend to violent beatings (*Cooper v. McJunkin*, 1853).

In another nineteenth century case, *Vanvactor v. State* (1888), the Indiana Supreme Court dismissed criminal assault and battery charges against a teacher, finding that the spanking with a switch was reasonable and within the teacher's lawful duty. The court set forth four factors to measure reasonableness: (a) the nature of the student's offense, (b) the age and physical and mental condition of the student, (c) the student's personal attributes, and (d) the conduct of the teacher in administering the punishment.

In a more recent case involving the dismissal of a teacher for spanking a student at a state institution, the Indiana Supreme Court reiterated, in unambiguous terms, the right of Indiana teachers to physically discipline students: "The law of Indiana clearly accords to the public

school teacher in proper cases the same right over a child in his or her school as is possessed by the parent, and this includes the right to administer corporal punishment when it is appropriate" (*Indiana State Personnel Bd. v. Jackson*, 1963). The court concluded from the evidence that the teacher struck the student lightly, without anger, and only after other means of discipline had been tried. Finding no evidence that the teacher had knowledge of any institutional prohibitions on the use of corporal punishment, the court ordered the teacher's reinstatement.

Given the legal prerogative to use corporal punishment, almost all school corporations in Indiana allow this disciplinary technique, and for most of them it is not a source of controversy (Swanson, 1989). Some districts are paddling fewer students (Sangiacomo, 1988; Swanson, 1989), but the total number of incidents has remained steady through the 1980s: 29,271 incidents in 1980 (Van Dyke, 1984), 30,820 in 1986 (OCR, 1986).

However, several Indiana districts, such as LaPorte, Lake Central, and Fort Wayne, have chosen to ban corporal punishment in their schools. Former LaPorte Superintendent Steve Snider directed principals to stop paddling students in 1986, after several incidents involving severely bruised buttocks and potential lawsuits. Although some principals wanted to retain the right to use corporal punishment as a last resort, Superintendent Snider, convinced that alternative disciplinary measures could be just as effective and much less problematic, insisted on full compliance with the ban (Ike Tallman, Acting Superintendent, personal communication, July 14, 1989).

Until last year, paddling had been quite common in the Lake Central School Corporation. However, some school officials were uncomfortable with this disciplinary technique, deeming it ineffective and inappropriate (Dr. Janet Emerick, Assistant Superintendent, personal communication, July 13, 1989). In the summer of 1988 the school board voted 3-1 to prohibit corporal punishment in the district.

In Fort Wayne, the number of incidents had been dwindling for several years, partially because of the fear of lawsuits, according to Dr. Jerry Koos, Deputy Superintendent (personal communication, July 11, 1989). In addition, several school board members believed that corporal punishment was sending the wrong message to children. Board members also expressed concern over the Office of Civil Rights 1986 survey that revealed that a disproportionate number of blacks and males were being paddled in the district (Dinnerstein, 1988). In December 1988, the school board voted 5-1 to ban corporal punishment.

While the ban sparked little controversy, some teachers and administrators were concerned that discipline might suffer. To quell these concerns, the corporation organized a committee of teachers and administrators to recommend alternative disciplinary measures. The committee's report, accepted by the school board in April 1989, reaffirmed the corporation's commitment to strong discipline and recommended a range of alternative measures. For instance, relatively minor misbehavior might result in counseling sessions, after-school detention, restricted participation in extracurricular activities, or behavior contracts. More serious offenses could lead to probation, home visitations, in-school suspension, or Saturday school programs.

Several school corporations, such as the School Town of Munster, are considering policies to ban corporal punishment, and others, while not officially prohibiting it, simply do not use this disciplinary technique. In Beech Grove, for example, teachers and principals have not used corporal punishment for years or even considered it as an alternative, according to Assistant Superintendent Dr. Sue Drews (personal communication, July 18, 1989), even though the district has no policy statement banning its use.

Attempts to prohibit corporal punishment are not confined to the local level. In both the 1988 and 1989 sessions of the Indiana legislature, Representative John Day (D-Indianapolis) introduced a bill that would have prohibited corporal punishment in all Indiana public schools. "We live in a violent society and we should do what ever we can, however modest, to reduce that violence," said Day. "Our young people need to know that there are alternative ways to handle problems without the use of force" (Day, 1988).

In addition to prohibiting corporal punishment in public schools, Day's bill would have appropriated $45,000 per fiscal year in matching funds to help corporations implement disciplinary alternatives such as after-school

detention and Saturday school programs. The bill stipulated in part:

> In recognition of the fact that children of school age are at the most vulnerable and impressionable period of their lives and that the safeguards to the integrity and sanctity of their bodies should be at least equal to that afforded other citizens, the alternatives to corporal punishment matching fund is established to assist school corporations in implementing methods of discipline that do not include corporal punishment (House Bill 1526, 1989).

In 1988, the House Education Committee defeated the bill by a 5-4 vote. Committee members who voted against the bill generally agreed that corporal punishment should be used sparingly, but they were not prepared to say "never" to this form of discipline, preferring to leave decisions on whether, when, and how to use corporal punishment in the hands of local school boards. In 1989 the bill failed to gain a hearing in the same committee. Although these initial attempts to legislate a statewide ban have been unsuccessful, Day plans to reintroduce the bill in 1990.

Alternatives

In states considering the statutory abolition of corporal punishment, a primary concern of both teachers and school administrators is the establishment of practical alternative disciplinary programs. Out-of-school suspension is one possible alternative. However, this type of suspension may prove problematic because it removes the student from the learning environment altogether.

In-school suspension can offer a more productive alternative, and has proven especially effective when augmented by counseling and self-help programs. The goal of these self-help programs is to treat the root cause of the student's problems rather than just to punish the behavior. Individual counseling, self-help materials, and various audio-visual programs can help students develop successful study skills, clarify values, and learn acceptable alternatives to classroom misbehavior. However, while in-school suspension can provide a productive alternative learning environment for problem students, it often requires additional facilities and staff, resulting in higher costs for the school district.

Other alternatives to corporal punishment include:

- -timeout procedures (i.e., temporarily removing a child from a potentially explosive situation and giving him or her a chance to regain self-control);
- -behavior contracting (a written agreement in which expected behavior and consequences are specified);
- -alternative schools (a small sub-unit of the school system with a low student-teacher ratio and a curriculum tailored to individual student needs);
- -after-school detention or Saturday school programs.

Parent and student peer groups have also been utilized to improve student behavior. Typically a small group of parents or students meets periodically to review problems arising from disruptive behavior. The offending student has a chance to present his or her side, and the resolution of the dispute is usually viewed as fair by all parties.

In addition to the above alternatives to corporal punishment, school authorities may choose to increase parental participation in school discipline programs and increase parents' responsibility for their child's behavior while in school. Indiana law allows schools to *require* parental participation in school disciplinary procedures (Ind. Code Ann. § 20-8.1-5-7, Burns 1987). The failure of a child's parent or guardian to comply with school disciplinary procedures may result in the child being declared a "child in need of services" (Ind. Code Ann. § 31-6-4-3[a][7], Burns 1987), indicating that the child will be referred to selected state social service agencies for additional support services.

Conclusion

Although the judiciary has upheld the reasonable use of corporal punishment to discipline students, there appears to be a trend toward the abolition of corporal punishment in

the public schools, at least in part because of a heightened concern over child abuse. Numerous alternatives exist and are currently being practiced in school systems nationwide. Despite a strong polarization of the beliefs and attitudes of corporal punishment supporters and opponents, there is general agreement that effective education can only occur in a well disciplined environment. Whether corporal punishment is an effective tool in achieving this goal is an issue that will ultimately be resolved through the legislative process.

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